



Jeremiah Samples
Project Manager

The State of West Virginia
The Offices of the Insurance Commissioner
1124 Smith Street, Room 105
Charleston, WV 25301

OIC HBE What's New

Number: #006

Disclaimer: The information presented in this document does not necessarily reflect the views and opinions of the State of West Virginia or the West Virginia Health Benefit Exchange.

Date Delivered: January 3, 2011

Reporting Period: December 3, 2011 through January 2, 2012

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1. Laws and Regulations

Final Rules, Proposed Rules, Interim Final Rules and related information that has been published in the Federal Register relevant to the HBE. May include items from the Federal Register Public Inspection Desk that have not yet been published. Presented in the order they were published. Links to summaries and commentaries on rules may also be included, including those related to rules described in previous What's New reports.

A. [45 CFR Part 156: Patient Protection and Affordable Care Act; Establishment of Consumer Operated and Oriented Plan \(CO-OP\) Program – Final Rule](#)

gpo.gov, Federal Register, Volume 76, No. 239, December 13, 2011, pg. 77392

This final rule implements the Consumer Operated and Oriented Plan (CO-OP) program, which provides loans to foster the creation of consumer-governed, private, nonprofit health insurance issuers to offer qualified health plans in the Affordable Insurance Exchanges. The goal of this program is to create a new CO-OP in every state in order to expand the number of health plans available in the exchanges with a focus on integrated care and greater plan accountability.

Effective Date: This rule is effective on February 13, 2012.

2. Guidance and Other Federal Communications

State Medicaid Directors Letters, CMS Bulletins and other guidance to states provided by HHS, ONC, CMS or other Federal agencies relevant to the implementation and operation of HBE. Links to summaries and commentaries on guidance may also be included.

A. [Essential Health Benefits Bulletin](#)

hhs.gov, December 16, 2011

The U.S. Department of Health and Human Services (DHHS) released a [bulletin](#) on December 16th providing information and soliciting comments on the Department's regulatory approach to defining essential health benefits (EHB) under section 1302 of the Affordable Care Act. Comments on the intended approach, which was developed with significant input from the public, reports from the Department of Labor and the Institute of Medicine, and research conducted by HHS, must be submitted to DHHS via e-mail by January 31, 2012.

The bulletin issued on December 16th applies only to covered services; DHHS plans to release guidance on calculating actuarial value and the provision of minimum value by employer-sponsored coverage in the near future. In addition, they plan to issue future guidance on essential health benefit implementation in the Medicaid program.

For a summary of individual market coverage as it relates to essential health benefits, visit:

<http://aspe.hhs.gov/health/reports/2011/IndividualMarket/ib.shtml>

For information comparing benefits in small group products and state and Federal employee plans, visit:

<http://aspe.hhs.gov/health/reports/2011/MarketComparison/rb.shtml>

Additional analyses and summaries of the Essential Health Benefits bulletin issued by DHHS can be found at the following links:



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1. [Essential Health Benefits: HHS Informational Bulletin](#)
Healthcare.gov, December 16, 2011
2. [Implementing Health Reform: A Bulletin on Essential Health Benefits](#)
Healthaffairs.org, Timothy Jost, December 16, 2011
3. [HHS Gives States Flexibility on Health Law's "Essential Benefits"](#)
Kaiserhealthnews.org, Julie Appleby, December 16, 2011

B. [Paperwork Reduction Act \(PRA\) Listing: Medical Loss Ratio Annual Reporting and Rebate Calculation](#)

cms.gov, CMS Form Number CMS-10418, December 16, 2011

Section 2718 of the Public Health Services Act (PHS Act) requires a health insurance issuer (issuer) offering group or individual health insurance coverage to submit a report to the Secretary of HHS concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes, licensing and regulatory fees and earned premium. An issuer must provide a rebate to enrollees if the amount it spends in a reporting year on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing and regulatory fees) is below a certain ratio, referred to as the medical loss ratio (MLR.)

An interim final rule (IFR) implementing the MLR was published on December 1, 2010 as modified by technical corrections on December 30, 2010. A final rule regarding selected provisions of the IFR was published on December 7, 2011 and an interim final rule regarding an issue not included in issuers' reporting obligations (disbursement of rebates by non-federal governmental plans) was also published on December 7, 2011.

Both rules published on December 7, 2011 are effective January 1, 2012.

For additional analysis of the impact of the rules on insurance brokers, please see section 5.E. of this report titled [Insurance Brokers and the Medical Loss Ratio](#).

3. Grants Announcements and Funding Opportunities

Announcements of HBE-related grants or other funding opportunities for which state agencies are eligible to apply as announced by HHS, ONC, CMS or other federal agencies. Links to related summaries and commentaries may also be included.

There were no HBE-related grant announcements or funding opportunities identified this month.

4. Exchange Activity in Other States

Includes new and proposed state Exchange legislation, funding submissions and awards, RFP announcements and awards, and other notable state activities related to the establishment of Exchanges.

A. Legislative Actions



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1. [Delegate Seeks Bill for Virginia Health Insurance Exchange](#)
Richmond-Times Dispatch, Michael Martz, December 6, 2011

Virginia Governor Bob McDonnell won't seek legislation in January 2012 to create a health insurance exchange, but a top Republican in the House of Delegates said the state cannot afford to wait and risk the federal government imposing an exchange with its own rules and consequently has filed a request for "placeholder" legislation that could be used as a vehicle for creating a state-run exchange.

2. [State House Votes to Turn Down Federal Funds for Statewide Health Exchange](#)
freep.com, Patricia Anstett, December 16, 2011

The Michigan House voted to turn down nearly \$10 million in federal funds to create an Exchange, although Governor Rick Snyder supports Michigan creating its own exchange.

3. [D.C. Finalizes Health Exchange Law](#)
bizjournals.com, Ben Fischer, December 20, 2011

The D.C. Council gave final approval on December 20 to a measure creating the District's health insurance exchange. The legislation included a strict ban on anybody with a financial stake in health insurance or medical care running the governing board of the exchange, as well as a prohibition on exchange board or staff members from taking a job with a health insurer within a year of their departure.

4. [Protecting Arkansas Insurance Consumers](#)
Paragoulldailypress.com, December 25, 2011

In his weekly column and radio address, Governor Mike Beebe endorsed Arkansas' involvement in a state-federal partnership after legislative opposition forced a halt to planning efforts for a state-run health insurance exchange, which Governor Beebe states he would have preferred over the partnership model. The Governor expressed his support in a letter to U.S. Health and Human Services Secretary Kathleen Sebelius as part of the state's application for a \$7.6 million Level One Exchange grant.

Additional information is available in the following articles: [Beebe Seeks Partnership for Health Insurance Exchange](#); [Bradford: No Longer Preparing for a State-run Exchange](#)

B. Funding Submissions and Awards

There were no funding submissions or awards identified this month.

C. RFR/RFP Announcements and Awards

1. [Maryland](#)

On December 2, Maryland released an RFP for a Project Management Office (PMO) to provide a series of deliverables that encompass all project lifecycle phases, specifically focused on project management and technical management throughout all performance periods through the implementation of the Exchange. Staffing requirements requested include:

- One Full-time Project Manager;



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- .25 FTE ACA Subject Matter Expert;
- One Full-time Senior Technical Analyst;
- One Full-time Business Process Consultant;
- Three FT Systems Analysts; and
- Four FT Business Analysts

The RFP is available on [Maryland's Exchange website](#).

2. California

On December 20, the California Health Benefit Exchange released its draft RFP to acquire the service of a contractor to design, develop and deploy functionality to meet the requirements of the Affordable Care Act relating to the Exchange, Medi-Cal and Healthy Families. The state is soliciting comments on the document and is encouraging vendors who plan to respond to the solicitation to submit a Formal Notice of Intent to Respond by December 30, 2011.

The draft solicitation is available on [California's Exchange website](#).

3. Nevada

On behalf of the Nevada Department of Health and Human Services, Division of Welfare and Supportive Services, the State Purchasing Division released a request for proposals on December 20 to develop and implement a business rules engine that will store all of the eligibility rules for the State of Nevada's publicly-subsidized health coverage programs in one place and will be accessible to individuals shopping for health coverage from multiple entry points, such as the Health Insurance Exchange.

The RFP is available [here](#).

4. Massachusetts

The University of Massachusetts Medical School issued an RFR on December 21 soliciting proposals from Systems Integration Contractors to design, develop, and implement a new, state of the art Health Insurance Exchange and Integrated Eligibility System for Massachusetts health care programs.

The RFR is available on Massachusetts' State Procurement website, [Comm-PASS](#).

D. Other News

1. [State Seeks Public Input on Minnesota Made Health Insurance Exchange](#)
mn.gov, December 5, 2011

Minnesota's Department of Commerce made sample Health Insurance Exchange modules – a series of websites simulating what an Exchange might look like –live for public evaluation on December 5. Each module has three or four samples from different vendors to review. Vendors who have



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submitted modules are Ceridian, Curam, Deloitte, GetInsured.com, and MAXIMUS/Connecture. Links to each of the modules can be accessed from the [Minnesota Department of Commerce website](#).

2. [Broad Array of Funding Available for Maryland Health Benefit Exchange](#)
somd.com, Glynis Kazanjian, December 14, 2011

Maryland's Health Benefit Exchange Board recommended a broad-based funding approach to pay for the state-run Exchange, now estimated to cost up to \$30 million in 2014 and \$60 million by 2016.

Recommendations are available on [Maryland's Exchange website](#).

3. [Spending for New Hampshire Health Exchange Nixed](#)
Concord Monitor, Karen Langley, December 15, 2011

Insurance Commissioner Roger Sevigny said he expects the federal government will establish the Health Insurance Exchange for New Hampshire after the state's Executive Council declined to authorize spending \$333,000 of the state's Planning Exchange Grant to examine the technology needed to build the Exchange on December 14.

4. [Legislators Get Glimpse of Oregon Insurance Exchange's Draft Business Plan](#)
thelundreport, Amanda Waldroupe, December 22, 2011

The draft business plan for the Oregon Health Insurance Exchange was presented to the state Legislature's House and Senate healthcare committees on December 20. Preliminary financial modeling indicates enrollment will range between 127,850 to 280,250 enrollees in 2014 and between 183,000 and 398,450 enrollees in 2015. To break even financially, the exchange must have between 100,000 and 125,000 people enrolled by the end of 2015. The exchange is expected to support itself through a 2.52% administrative fee, which equates to around \$16 for everyone who buys coverage, a portion of which will be used to pay for insurance agents, rather than the insurance companies.

A draft of the business plan is available on [Oregon's Health Insurance Exchange website](#).

5. [Haslam: Don't Delay Tennessee's Health Exchanges](#)
bizjournals.com, December 27, 2011

Tennessee's Governor Bill Haslam does not think the state should delay establishing its own Exchange and risk losing federal grant money to support it, despite a recommendation earlier this month from Senate Speaker and Lt. Governor Ron Ramsey to wait until next December to make a decision.



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5. Other Reference Materials, Notices and Related Information

Includes Affordable Care Act information that may impact OIC's HBE planning efforts but may not be primarily focused on the HBE, as well as materials disseminated by non-government entities (such as Kaiser Family Foundation, universities and industry associations) and items identified by the West Virginia Health Benefits Exchange stakeholder community.

A. [Federally-Facilitated Exchanges and the Continuum of State Options](#)

rwjf.org, Deborah Bachrach and Patricia Boozang, December 2011

With the support of the Robert Wood Johnson Foundation, the National Academy of Social Insurance (NASI) published a report exploring the three models (State-based, Federally-facilitated, and a State-Federal Partnership) states may employ to comply with the ACA requirement to establish a health insurance exchange by January 2014. The report reviews how the core functions of an Exchange might be affected in the different Exchange models and the implications for states selecting varying models as interim or permanent solutions. The report's authors conclude that regardless of the model, success can only be achieved through intensive collaboration between individual states and the U.S. Department of Health and Human Services.

B. [Supreme Court Schedules Healthcare Law Briefs](#) and [Sets Weeks Worth of Arguments Over Obama's Health Care Plan for Late March](#)

insurancejournal.com, James Vicini, December 11, 2011 and washingtonpost.com, Associated Press, December 20, 2011

The Supreme Court set the schedule in early December for briefs to be filed ahead of hearing arguments in late March over the Affordable Care Act (click [here](#) for article). In a brief order, the court required that the first set of briefs will be due starting in early January, the other side will file their briefs in February, and final reply briefs will be submitted in early March. On December 19, the Supreme Court announced it would hear an unprecedented five hours of oral arguments on March 26, 27, and 28 (click [here](#) for article).

C. [Feds Face Challenges in Launching U.S. Health Exchange](#)

kaiserhealthnews.org, Julie Appleby, December 19, 2011

Many states in the country are either unwilling or unable to implement the required insurance exchanges by the Jan. 1, 2014, deadline, leaving the federal government to operate an exchange for them. However, many healthcare experts question whether the federal insurance exchange will be operational by the deadline due to the technical, political, and financial challenges present.



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D. [Checking Up on Health Insurance Exchanges](#)

governing.com, Dylan Scott, December 21, 2011

On December 12, the National Conference of State Legislatures (NCSL) released an update on states' progress in developing health insurance exchanges (original document is available at the link in the governing.com article). According to NCSL's analysis, 30 states and the District of Columbia have enacted an executive order or legislation that lays the groundwork for developing an exchange. Most other states have at least formed a task force to explore options. Twenty-eight states plus the District of Columbia have received Level I establishment grants from the U.S. Department of Health and Human Services to implement their plans. Eleven of those states are participating in the 26-state lawsuit that alleges the PPACA is unconstitutional. Alaska has pledged to form its exchange without federal funding. Arkansas and Louisiana have opted for a federally run exchange. Additional information from the NCSL, including a map of the status of states' actions to implement health insurance exchanges, can be found on the [NCSL website](#).

E. [eHealthInsurance Named Best Website for Health Insurance Quotes](#)

marketwatch.com, December 12, 2011

eHealthInsurance, the leading online source of health insurance for individuals, families and small businesses has been named the best website for health insurance quotes in the December 2011 "Best of Everything" issue from Kiplinger's Personal Finance magazine. Kiplinger praised eHealthInsurance.com for providing consumers with personalized health insurance quotes and policy details from numerous insurers based on age, location, and other factors.

F. [Pre-Existing Condition Insurance Plan: Comparison of Implementation and Early Enrollment with the Children's Health Insurance Program](#)

gao.gov, December 13, 2011

The Patient Protection and Affordable Care Act (PPACA) required the establishment of the Pre-Existing Condition Insurance Plan (PCIP) program. The program provides coverage through the end of 2013, at which point enrollees will be guaranteed access to plans offered in the private market. As a new Federal program, there is interest both in how the PCIP program has been implemented and how its implementation compares to another publicly funded insurance program – the Children's Health Insurance Program (CHIP). Congress asked the Government Accountability Office (GAO) to compare early program implementation and enrollment across PCIP and CHIP. In this report, the GAO examines: (1) how long it took to implement PCIP and CHIP in all states; (2) initial enrollment trends for PCIP and CHIP; and (3) any differences in implementing PCIP, and trends in enrollment, between states that had high risk pools prior to the enactment of PPACA, and those that did not.

G. [New Data: Affordable Care Act Helps 2.5 Million Additional Young Adults Get Health Insurance](#)

hhs.gov, December 14, 2011

The National Center for Health Statistics at the Centers for Disease Control and Prevention (CDC) released data illustrating that the Affordable Care Act continues to significantly increase the number of young adults who have health insurance. Data from the National Health Interview Survey (NHIS) shows that since September 2010, the percentage of adults aged 19-25 covered by a private health insurance plan increased significantly, with approximately 2.5 million more young adults with insurance coverage compared to the number of young adults who would have been insured without the law. Read more at [HealthCare.gov](#).



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H. [Insurance Brokers and the Medical Loss Ratio](#)

healthreform.kff.org, Cynthia Cox and Larry Levitt, December 8, 2011

On December 1, 2011, HHS issued an [interim final rule](#) on the medical loss ratio, requiring insurers to spend at least 80% of premium dollars for individual and small employer plans and 85% for large employer plans on health care expenses and quality improvement, or pay a rebate to consumers. In the rule, HHS maintained its original decision to include broker (aka "producer") compensation as an administrative expense, which producers fear will place downward pressure on their sales commissions as carriers look to reduce administrative expenses and avoid rebates.

An [analysis](#) of 2010 insurer filings to the NAIC performed for the Kaiser Family Foundation indicated that on average, nationwide broker compensation accounted for 6% of insurance premiums in the individual market and 5% of premiums in the small group market, or about \$12 per month for commissions in the individual market and \$15 in the small group market on a per person basis. (Amounts are averages as not all insurance is sold through brokers, and commissions are generally higher for an initial sale than for a renewal.) Although fees vary significantly from state to state, the analysis indicated that in 2010 brokers fees in West Virginia averaged 6-7% in the individual market. Although not directly related to Exchange planning efforts, the MLR rule and its potential impact on producer commissions is relevant as it may influence compensation Exchanges provide to producers for efforts enrolling consumers in commercial plans in the Exchange.

Additional analysis is available by Timothy Jost in a [Health Affairs Blog](#) and Katherine Hobson in a [Wall Street Journal Health Blog](#).